

APPEAL NO. 022771
FILED DECEMBER 16, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was scheduled for June 3, 2002, but the appellant (claimant) failed to appear. The show cause hearing and hearing on the merits was held on September 26, 2002. The hearing officer determined that the claimant did not sustain a compensable injury on _____, and that the claimant does not have disability from December 11, 2001, and continuing through the date of the CCH. The claimant appealed on sufficiency of the evidence grounds and asserted that the hearing officer admitted a document that was not timely exchanged. The respondent (carrier) filed a response urging affirmance.

DECISION

Affirmed.

The claimant asserts that the hearing officer erred in admitting documentary evidence that was not timely exchanged by the carrier. Review of the record indicates that Carrier's Exhibit Nos. 1-12 were admitted by the hearing officer without objection from the claimant, and that Carrier's Exhibit No. 13 was not admitted by the hearing officer because it was not timely exchanged by the carrier. This assertion of error is without merit.

Whether the claimant sustained a compensable injury and had disability were factual questions for the hearing officer to resolve. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE-HALL CORPORATION SYSTEM, INC.
800 BRAZOS
AUSTIN, TEXAS 78701.**

Veronica Lopez
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Robert W. Potts
Appeals Judge